IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.439 OF 2002

Office Notes, Office Memoranda of coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Shri A.V.Anturkar for the petitioners.
Shri Ashok Gude with Mr.V.A.Gangal for respondent nos.1 to 3.

CORAM: V.G.PALSHIKAR &
D.B.BHOSALE, JJ.

DATED: 24TH AUGUST, 2005.

P.C.:

. By this petition, the petitioners have challenged the right of Nashik Municipal Corporation in the matter of levying of octroi on new cars entering the precinct of the Municipal Corporation of Nashik. In reply, the corporation has raised objection that the present petition is not tenable as there being an appeal available under section 406 of Bombay Provincial Municipal Corporation Act, 1949.

2. The objection is valid. The petitioner is, therefore, relegated for remedy of the appeal. If he files appeal within four weeks from the date

of receipt of this order the appropriate appellate authority shall consider the appeal on merits only without raising any issue regarding limitation.

3. The petitioner is in similar situation in three other vehicles which according to the corporation have entered precinct ofthe municipal corporation. The apprehension of the petitioner is that even if he go in appeal the corporation may immediately try to recover all the octroi allegedly due in relation to other three vehicles. In our opinion, the interest of justice would be served if the appeal is made and in relation of other three vehicles a representation is made to the corporation for awaiting decision in appeal and thereafter proceed. If such application is made it should be considered favourably. The petition is, accordingly, disposed of.

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